

REMARKS

Claims 1 and 11-15 were pending as of the Office Action of February 26, 2008, with claims 2-10 having been previously cancelled. Claim 15 is cancelled with this Response, and the Drawings are amended with the attached Replacement Drawing Sheets.

Double Patenting Rejections

Claims 1 and 11-13 are provisionally rejected on the ground of non-statutory obvious-type double patenting over claims 2, 20, and 24 of Co-Pending Application No. 11/578,982. In response, Applicant respectfully submits a Terminal Disclaimer directed to Application No. 11/578,982.

Objection to the Drawings

The Drawings are objected to because some of the text is not in English. In response, Applicant respectfully amends the non-English text “Pchambre” out of Figure 3.

Rejections under 35 U.S.C. §112, first and second paragraphs

Claim 15 is rejected under 35 U.S.C. §112, first and second paragraphs for being non-enabled and indefinite. In response, Applicant respectfully cancels claim 15.

Rejections under 35 U.S.C. §103(a)

Claims 1, 11, and 13-15 have been rejected under 35 U.S.C. §103(a) as being obvious over United States Patent No. 5,612,876 to Zeidler (“Zeidler” hereinafter) in view of Steindl, “Impedance loaded SAW-sensors offer a wide range of measurement opportunities” (“Steindl” hereinafter), and Japanese Patent No 8087557 to Ishiyama (“Ishiyama” hereinafter). Applicant respectfully traverses this rejection.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing that all elements of the invention are disclosed in the prior art and that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165

U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996).

Applicant's claim 1 recites *inter alia*:

"dedicated pressure sensor being electrically connected to said surface acoustic wave device so as to activate said surface acoustic wave device when said dedicated pressure sensor is triggered."

Neither Zeidler, Steindl, nor Ishiyama, taken alone or in combination, teach a dedicated pressure sensor that is connected to a surface acoustic wave device in a manner that activates the surface acoustic wave device when the dedicated pressure sensor is triggered. Referring first to Zeidler and Ishiyama, Applicant respectfully points out that these references do not teach a dedicated pressure sensor connected to a surface acoustic wave device, and are not used by the Examiner to teach such an element. Instead, the Examiner uses Steindl to teach connection to a surface acoustic wave device, making Steindl the *de facto* controlling reference regarding the above quoted claim element.

However, Steindl does not teach activation of the surface acoustic wave device via a triggering of the dedicated pressure to which it connected. On the contrary, Steindl teaches SAW devices that may be used as passive transponders for wireless readout of an external sensor (see page 1453, bottom of first column to top of second column). According to Steindl, the external sensor influences the load impedance of the SAW resonator, which changes the acoustic transmission and reflection properties of the SAW resonator (see page 1453, bottom of first column to top of second column and Figure 3 on page 1454). It therefore follows that the external sensor of Steindl is connected to the SAW device in such a manner that the external sensor influences the acoustic transmission and reflection properties of the SAW device. Thus, Steindl does not teach a dedicated pressure sensor that is connected to a surface acoustic wave device in a manner that activates the surface acoustic wave device when the dedicated pressure sensor is triggered as recited in Applicant's claim 1.

For at least the above reasons, Applicant respectfully submits that the proposed combination of Zeidler, Steindl, and Ishiyama does not teach every element of Applicant's claim 1 or claims 11 and 13-14 that depend therefrom. Accordingly, Applicant respectfully submits

that *prima facie* obviousness does not exist regarding claims 1, 11, and 13-14 with respect to the proposed combination of Zeidler, Steindl, and Ishiyama. Since the proposed combination of Zeidler, Steindl, and Ishiyama fails to teach or suggest all of the limitations of claims 1, 11, and 13-14, clearly, one of ordinary skill at the time of Applicant's invention would not have a motivation to modify the reference, or a reasonable likelihood of success in forming the claimed invention by modifying. Thus, here again, *prima facie* obviousness does not exist. *Id.*

Claims 1, 11, and 12 have been rejected under 35 U.S.C. §103(a) as being obvious over United States Publication No. 2004/0215382 to Breed ("Breed" hereinafter) in view of United States Patent No 7,151,455 to Lindsay ("Lindsay" hereinafter). Applicant respectfully traverses this rejection.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing that all elements of the invention are disclosed in the prior art and that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996).

With reference to the above, Applicant respectfully points out that Lindsay does not qualify as prior art over Applicant's claims under 35 U.S.C. §103(a). Lindsay has an earliest filing date of April 30, 2004, while Applicant's earliest filing date is November 14 2003 (see EP 03 104 207.0, to which Applicant's claims claim priority). Accordingly, Applicant respectfully submits that the 103 rejection of Applicant's claims over Breed in view of Lindsay I improper and overcome.

Conclusion

Applicant believes that all of the outstanding objections and rejections have been addressed herein and are now overcome. Entry and consideration hereof and issuance of a Notice of Allowance are respectfully requested.

Applicant hereby petitions for any extension of time under 37 C.F.R. 1.136(a) or 1.136(b) that may be necessary for entry and consideration of the present Reply.

If there are any charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130 maintained by Applicants' attorneys.

The Office is invited to contact applicant's attorneys at the below-listed telephone number concerning this Amendment or otherwise regarding the present application.

Respectfully submitted,
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